

<b>BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA</b> Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for Generation Procurement and Renewable Resource Development.	Rulemaking 01-10-024 (Filed October 25, 2001)
---	--

**ADMINISTRATIVE LAW JUDGE'S RULING  
ON THE MOTION OF THE INDEPENDENT ENERGY PRODUCERS  
ASSOCIATION AND WESTERN POWER TRADING FORUM**

**1. Summary**

This ruling address the May 21, 2002 motion of the Independent Energy Producers Association and Western Power Trading Forum (IEP/WPTF) to “Compel Service of a Public Version of Testimony and for Clarification Regarding Participation Eligibility for Upcoming Commission Ordered Meetings.”

The request to compel immediate service of a public version of Volume II of Southern California Edison Company's (Edison) May 1, 2002 testimony was granted in a May 28, 2002 ruling by Administrative Law Judge A. Kirk McKenzie.

The request for clarification that the May 15, 2002 Assigned Commissioner's and Administrative Law Judge's Ruling Changing the Procedural Schedule for Testimony and Hearing in Response to Southern California Edison Company's Motion of May 6, 2002 (the May 15 Ruling) is not intended to exclude party participation from meetings that are addressing

non-confidential matters will be separately addressed in a subsequent ruling. In all other respects, the requested relief is denied.

I take the opportunity in this ruling to comment on the request by Edison in its May 24, 2002 supplemental testimony that the Commission set a separate procedural process and schedule for addressing the California Department of Water Resources (DWR) contract allocation and scheduling/dispatching issues. I do not grant this request. These issues are before the Commission in the upcoming hearings and all interested parties have the opportunity to address the issues in their May 31 and June 5 testimony and during cross-examination at the hearings. We will examine the full evidentiary record produced at hearing before deciding if a further procedural process is necessary.

## **2. Background**

In its May 21, 2002 motion, IEP/WPTF requests the Commission:

- a. clarify the procedural schedule for this case, including the decision to provide three business days for development of rebuttal testimony, the omission of a briefing schedule, oral argument prior to briefing and anticipated date for proposed decision;
- b. compel immediate service of a public version of “Volume 2” of the direct testimony of Edison consistent with the May 1 and April 25 ALJ Rulings regarding protected materials;
- c. clarify that the scope of phase one of this proceeding has been revised by the May 15 Ruling to explicitly address multi-year procurement planning by the utilities, and hence there should be no need to have testimony address an “interim” utility commodity procurement process;
- d. clarify that the May 15, 2002 Ruling is not intended to exclude party participation from meetings that are addressing non-confidential matters; and
- e. clarify that the supplemental testimony to be filed by the utilities on May 24, 2002 will be served in public form on all parties.

Pursuant to Rule 45(f) of the Commission's Rules of Practice and Procedure, the undersigned ALJ by electronic message on May 22, 2002 shortened the response time to May 24, 2002. Responses to IEP/WPTF's motion were timely filed by the Alliance for Retail Energy Markets (AReM), the California Energy Commission (CEC), San Diego Gas & Electric Company (SDG&E), and Edison.<sup>1</sup>

### **3. Discussion of Requested Relief**

#### **a. Requested Changes to the Procedural Schedule**

IEP/WPTF requests that the Commission provide a procedural schedule for briefing and a date for the anticipated proposed decision, as well as provide the rationale supporting the May 15 Ruling's rebuttal date for testimony and the scheduling of an oral argument that will precede briefing.

Only one respondent, AReM, supports this request and other respondents register objections. I do not find the reasons given by IEP/WPTF for this request to be persuasive and, therefore, deny the request.

#### **b. Request to Compel Service of a Public Version of Volume II of Edison's May 1, 2002 Testimony**

This request was granted in a May 28, 2002 electronic ruling by ALJ McKenzie.<sup>2</sup>

---

<sup>1</sup> In addition, the Office of Ratepayer Advocates (ORA) timely served an electronic message addressing the merits of the motion. In its message, ORA explained that due to the extreme shortness of time to respond and the unavailability of its primary attorney, it was not in a position to file a formal response.

<sup>2</sup> This ruling was memorialized by ALJ Walwyn in a May 29, 2002 ruling.

**c. Request to clarify the scope of this proceeding**

IEP/WPTF states that the May 15 Ruling raises a direct question of whether the parties developing testimony continue to be limited to proposing “interim” procurement designs, or if a more comprehensive and durable multi-year utility competitive commodity procurement approach is now within the scope of this phase. It requests the Commission adopt the latter approach.

The May 15 Ruling expanded the scope of the proceeding only to the limited extent we agreed to consider the specific relief requested in Edison’s May 6 Motion if the evidentiary record before us was quickly supplemented. IEP/WPTF’s request that we further expand the scope of the proceeding is denied.

**d. Request to Clarify the Meeting Process Set Forth in the May 15 Ruling**

IEP/WPTF requests that the Commission not exclude it from participating in meetings that address non-confidential matters and that the Commission clarify whether it has ordered all utilities to share Protected Materials with each other and DWR regarding their residual net short positions. This issue will be separately addressed in a subsequent ruling.

**e. Clarification that the supplemental testimony to be served by the respondent utilities on May 24, 2002 will be served in public form on all parties**

IEP/WPTF’s request on this matter is moot as all May 24, 2002 supplemental testimony was served on the full service list pursuant to the Electronic Protocols and the Protective Order adopted in this proceeding.

**Therefore, IT IS RULED** that:

1. Independent Energy Producers Association and Western Power Trading Forum’s (IEP/WPTF) request to compel immediate service of a public version of

Volume II of Southern California Edison Company's May 1, 2002 testimony was granted in the May 28, 2002 ruling of ALJ McKenzie.

2. IEP/WPTF's request for clarification that the May 15 ruling did not exclude party participation from meetings that are addressing non-confidential matters will be separately addressed in a subsequent ruling.

3. Interested parties should address the DWR contract allocation and scheduling/dispatching issues in their May 31 and June 5, 2002 testimony.

4. In all other respects, the May 21, 2002 motion of IEP/WPTF is denied.

Dated May 30, 2002, at San Francisco, California.

---

/s/ ANGELA MINKIN for  
Christine M. Walwyn  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling on the Motion of the Independent Energy Producers Association and Western Power Trading Forum on all parties of record in this proceeding or their attorneys of record.

Dated May 30, 2002, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

\*\*\*\*\*

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.